United States Court of Appeals

for the

District of Columbia Circuit

TRANSCRIPT OF RECORD

[redacted]

BRIEF FOR APPELLANT

United States Court of Appeals
For the
District of Columbia Circuit
FILED FEB 26 1957
Joseph W. Stewart
CLERK

UNITED STATES COURT OF APPEALS

DISTRICT OF COLUMBIA CIRCUIT

CASE NO. 12,959

Cornell Joel Grossman, D. D. S. : Appellant's Brief of Evidence

Appellant, : That The United States of America

: Used Appellant's

The United States Atomic : Atomic-Hydrogen-Thermonuclear

Energy Commission, and the : Formulas In All Detonations At

Government of the United : First Test, Hiroshima, Nagasaki

States. : Bikini, Ivy, and Others.

535

AFFIDAVIT OF SERVICE ATTACHED TO THIS COPY, AND TO ONE COPY SENT TO COUNSEL FOR UNITED STATES ATOMIC ENERGY COMMISSION.

THIS APPEAL PRAYS THAT THIS COURT REMAND THE APPELLANT'S REQUEST FOR COMPENSATION, AND RECOGNITION, TO THE UNITED STATES ATOMIC ENERGY COMMISSION, AS THE INVENTOR WHO FIRST GAVE THE ATOMIC HYDROGEN BOMB FORMULAS TO THE UNITED STATES OF AMERICA.

QUESTION PRESENTED

Under The United States Atomic Energy Act of 1946, and Prior Laws it is in the Province of this Court to decide the question, -

At Hiroshima and Nagasaki on August 6th and 9th in 1945 did this man's Invention end World War II quickly?

Were the Appellant's Atomic Chemical Formulas used in the other detonations?

Is the Appellant's Atomic Chemical Formulas in the Province of the United States Atomic Energy Commission to test and accept for compensation and recognition of the Appellant as the Inventor?

Shall this Court remand this case to the United States Atomic Energy Commission for reconsideration?

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT,
IN WASHINGTON, D. C.

Case No. 12, 959 January 14, 1957

CORNELL JOEL GROSSMAN, D.D.S.,

Petitioner,

v.

THE UNITED STATES ATOMIC ENERGY COMMISSION, and the GOVERNMENT OF THE UNITED STATES

APPELLANT'S BRIEF OF EVIDENCE AND NEW EVIDENCE THAT U.S.A. USED APPELLANT'S ATOMIC-HYDROGEN-THERMONUCLEAR FORMULAS IN ALL DETONATIONS AT FIRST TEST, HIROSHIMA, NAGASAKI, BIKINI, IVY, AND OTHERS.

To the Honorable, the United States Court of Appeals, for the District of Columbia Circuit, and to the Judges thereof.

As the Inventor who first gave the Atomic Hydrogen Bomb Formulas to the United States of America for use to end World War II in quick victory for the United States of America, I, Cornell Joel Grossman, D.D.S., of 46 Old Short Hills Road, Millburn, New Jersey, appeal to this Court to remand this request for recognition and compensation for this Invention to the United States Atomic Energy Commission.

On November 26, 1956 the Patent Compensation Board of the United States Atomic Energy Commission in Washington 25, D. C., in Re. application of Cornell Joel Grossman in its Reasons for refusing compensation to the Appellant stated in its final Finding Of Fact that Dr. Grossman disclosed no materials, method, formula, or weapon covered by the Atomic Energy Act and was therefor not to be compensated.

Dr. Grossman's answer to this is that one of his ingredients on detonation by dynamite left a crater of 100, 000 cubic yards, and this ingredient number one, destroyed four square miles with smoke stacks standing in exact prelude to the Hiroshima Picture.

As new evidence, the temperature of the Atomic reactions in the Sun is identical with the Bomb of Dr. Grossman's formula according to the text books descriptions of the temperatures obtained on ignition of the ingredients. The high heat of the reactions renders the explosion Atomic.

The Appellant asks this Court to remand this case to the United States Atomic Energy Commission based on the evidence in Docket 17, which was given to this Court by the United States Atomic Energy Commission.

Appellant will prove to the court that every statement he has made to the U. S. Atomic Energy Commission is in keeping with all basic Atomic Chemistry.

The Atomic Commission is wrong when it says, "The Chemistry Books are wrong, they wrote in the word Atomic, but did not mean it." The Board stated this repeatedly to each Atomic Proof in the Text Books, and Encyclopedias.

Appellant bases this appeal on the fact that the Atomic Chemistry he quotes does what he says it will do.

Second ingredient of appellants formula made a detonation of devastation when detonated alone like that of Hiroshima, and the smoke stacks stood as in Hiroshima.

Third Ingredient Ionizes the Air to set it on Fire, and has specific poisoning of Clothing and Victim.

Fourth Ingredient is Activated By the Third, to Detonate the others.

Secretary of War, of the U.S. gave a receipt to Appellant for these ingredients compounded into Appellants Atomic H-Bomb formula. Said receipt is in this court, in Docket 17.

Appellant prays for justice from this court and begs This Court to Impound and Protect Docket 17 as is proper and in keeping with the Atomic Energy Act, since this is the Atomic H-Bomb Formula.

THERE IS NOTHING FOR THE COURT OR THE GOVERNMENT TO LOSE IN MAINTAINING PROPER SECURITY IN THIS DOCKET.

In keeping with the Patent Laws of the United Statex it would be proper not to let the public have access to Docket 17 now in this court.

The PATENT LAWS guarantee secrecy of the applicants invention until the patent has been granted.

Petitioner prays that this be granted.

Most respectfully yours,

Cornell Joel Grossman, D.D.S.

Cornell Joel Grossman, D.D.S.

46 Old Short Hills Road
Millburn, New Jersey

Phone - Drexel 6-0006 or Drexel 6-0808

STATE OF NEW JERSEY:
SS
COUNTY OF ESSEX :

I, CORNELL JOEL GROSSMAN, of full age, being duly sworn according to law, upon my oath depose and say;

1. I am the Appellant in the foregoing action.

2. I have served a copy of the within brief on Mr. Hayward Brown, Esq., the Counsel for the United States Atomic Energy Commission, by registered mail, return receipt requested, addressing it to Room 201, 131 Indiana Avenue, U.S. Department of Justice, Patent Section Chief, Washington, D. C. This was mailed February 21, 1957.

Sworn to and Subscribed
before me this 21st day
of February, 1957

Mark T. Clancy

Cornell Joel Grossman, D.D.S.

Cornell Joel Grossman

Notary Public of New Jersey
My Commission Expires Feb. 7, 1960

APPENDIX TO BRIEF FOR APPELLANT

United States Court of Appeals
For the
District of Columbia Circuit
FILED APR 27 1957
Joseph W. Stewart
CLERK

UNITED STATES COURT OF APPEALS

DISTRICT OF COLUMBIA CIRCUIT

CASE NO. 12,959

Cornell Joel Grossman, D.D.S. : Appellant's Appendix of Evidence

Appellant, : That The United States of America Used Appellant's

The United States Atomic : Atomic-Hydrogen-Thermonuclear

Energy Commission, and the : Formulas In All Detonations At

Government of the United : First Test, Hiroshima, Nagasaki

States. : Bikini, Ivy, and Others.

AFFIDAVIT OF SERVICE ATTACHED TO THIS COPY, AND TO ONE COPY SENT TO COUNSEL FOR UNITED STATES ATOMIC ENERGY COMMISSION.

THIS APPEAL PRAYS THAT THIS COURT REMAND THE APPELLANT'S REQUEST FOR COMPENSATION, AND RECOGNITION, TO THE UNITED STATES ATOMIC ENERGY COMMISSION, AS THE INVENTOR WHO FIRST GAVE THE ATOMIC HYDROGEN BOMB FORMULAS TO THE UNITED STATES OF AMERICA.

APPENDIX FOR APPELLANT

Colonel Dwight D. Eisenhower stated to the Appellant, "I AM NOT INTERESTED IN SAVING THE LIVES OF SOLDIERS. I HAVE A MORE IMPORTANT PROBLEM. IN NORTH AFRICA WE CAN NOT PENETRATE THE GERMAN TANK ARMOR. WHAT DO YOU KNOW ABOUT FIRE POWER? CAN YOU GIVE ME A FORMULA THAT WOULD PENETRATE THE GERMAN TANKS? IF YOU DO THE GOVERNMENT WILL PAY HANDSOMELY FOR IT."

"WRITE THIS FORMULA DOWN, A FISTFUL OF IT WOULD DESTROY THE GREATER PART OF THE CITY OF WASHINGTON."

My reply was the formula for the Atomic Hydrogen bombs of my invention.

At my further insistence Colonel Eisenhower, seated at his desk, in his Chief of Anti-tank office wrote down the formula for the Atomic Hydrogen bombs used at Nagasaki, and Hiroshima and most of the other U.S. Detonations.

I offered to make the bomb for nothing to end the war quickly but Colonel Eisenhower refused the offer saying, "No, I will pass this on to the proper people."

Appellant appealed to the United States Atomic Energy Commission for compensation for these bomb formulas. The United States Atomic Energy Commission refusing payment as set forth in the respondents printed brief and appendix with copies of the laws involved before this court.

Many Many months ago this entire appeal and the appellants formulas were placed before this court by the United States Atomic Energy Commission and labeled Docket 17.

This Docket is the basis of this appeal. The Commission refuses to recognize it in any way. Appellant feels that due to the importance of this invention the Court should give him the right to point out any part of Docket 17, and refer to any text on the subject.

Appellant prays to this court for this right. Docket 17 contains a transcript of the hearing held March 9, 1955 and on page 5, the exact Atomic bomb formula is described without detail. Page 10 shows this disclosure is in the Atomic Energy field despite the Commissions denial.

On page 9 Mr. Harter states the energy had to come from a nucleous.

Appellant contends the so called nucleous exists only in theory and said energy allegedly coming from the nucleous is purely theory.

On page 13, Chairman Ooms shows his lack of fair judgment in refusing to recognize that Appellants formula is like the Atomic power of the earth and sun and stars.

Appellant refuses to print exact Hydrogen Bomb Chemicals in this transcript despite anything, as he feels the importance of National Security. Therefore Appellant will give exact details at a closed hearing of this Court. The public must be excluded. In generalities Appellant will show the facts in this appendix.

For example Encyclopaedia Britannica 1954, Volume 21, page 327, STAR, Plate 1, is the same ingredient reaction as the second ingredient of Appellants Formula on page 5, transcript of March 9th, 1955, hearing.

Page 329, Britannica article on Star, describes Appellants Atomic bomb ingredients and interaction is the same.

Britannica Encyclopaedia on SUN, shows same reaction as Appellants bomb, page 563 next to the last paragraph of 1954 edition. Therefore Appellants Formula is in the field of Atomic Energy.

Transcript of hearing of March 9, 1955, page 5, second paragraph first word of second line, in the Encyclopaedia Britannica article on this ingredient the very first thing mentioned is its power, as a vapor to Ionize the air. This is its Atomic power along with its other properties as described. The third edition of Smiths chemistry shows that the Hydrogen bomb of Appellants formula is Atomic by the interaction of this ingredient with the Atomic Hydrogen of Appellants invention, the H Bomb.

Docket 17, March 9th, 1955 Transcript second paragraph, second line, second ingredient is identical with Atomic power of Sun, page 563, next to last paragraph volume 21, 1954 Britannica, and if you look in the Britannica for this chemical ingredient you will see it is Atomic power when in combination with Appellants other ingredients.

Docket 17, transcript of March 9th, 1955 hearing Page 5, second paragraph, second line, see Encyclopaedia Britannica on this ingredient to note how it forms a whole host of Atomic explosives.

See Britannica Encyclopaedia for the action on Hydrogen and how it creates Atomic hydrogen of Appellants ingredient mentioned on page 5, second paragraph, line 3. Transcript of Hearing, March 9, 1955.

Page 38, March 9, 1955 transcript shows that Appellant's Bomb Hydrogen is Atomic Hydrogen.

This Appendix could go on and on with details from Docket 17, but the court having limited my time to get it in and having ordered it Printed Appellant prays not to be compelled to divulge Atomic H Bomb Formulas to printer by specific further references, but prays to this court for a secret hearing that excludes the public, in order to make full clear disclosures.

Appellant prays for the right to Quote any Authority in support of his contentions.

The United States Atomic Energy Commission publication, "WHAT YOU SHOULD KNOW ABOUT THE ATOMIC BOMB" on almost every page shows Appellants ingredient. For security reasons exact pages where these ingredients are mentioned will be shown by the Appellant to be the same as those printed in the Docket #17 transcript of the March 9th, 1955, hearing on page 5, page 6, and other pages.

The bulletin of the Institute for Chemical Research on "THE RADIO ACTIVE DUST FROM THE NUCLEAR DETONATION" by Kyoto University, Kyoto, Japan, Nov. 1, 1954, shows on almost every page that the March 1st, detonation at Bikini Atol, was from Appellants formula, and since Colonel Hudgins in the transcript of the second hearing states no Uranium was used, it is proper to assume that Appellants ingredients were used.

The ingredient that is the last word in line one page 11 is Inventors Secret ingredient to get Atomic Energy out of Uranium in an Atomic Bomb.

This is Appellant's invention.

Lines 7, 8, 9, and 10 are Typographic Errors or inaccuracy in hurried speech for the combination is the invention of the Appellant. Page 11.

Lines 15, 16, and 17 are a deduction of the Appellant from the fact of line 12, 13, and 14. Since He invented the Atom Bomb from said ingredient. Page 11.

Page 11, has typers error, should be In Venables as the first two words.

EXPLANATION to PAGE 9

Paragraphs 2 to 6 of this page refer to the transcript pages of the March 9th, 1955 hearing.

Appellant gave the mode of making a bomb from Uranium.

The U.S.A.E.C says that Appellants ingredients are not atomic. Appellant differs with this and states that Uranium is an atomic chemical.

Transcript of Hearing of March 9, 1955, Docket 17, page 15, shows Appellant gave the Hydrogen Bomb Formulas to the Acting Secretary of Defense, and received a receipt for the formula. This Hydrogen Bomb Formula of the Appellant's Invention is written on this receipt, and is entered as Exhibit 1, on page 22 of this transcript.

Appellant bases his right for compensation on the Atomic Energy Acts of 1946, and other years.

Brief and Appendix for respondent correctly contains the pertinent parts of the Atomic Energy Acts.

The time limit set by the court does not permit any further detailing of this transcript. Appellant prays that this court will permit further data from Docket 17 at the hearing. Appellant prays that this court remand this application for recognition to the United States Atomic Energy Commission for just compensation for having been the inventor of these bombs who first gave them to the United States Government.

Cornell Joel Grossman, D.D.S.

Cornell Joel Grossman, D.D.S.
46 Old Short Hills Road
Millburn, New Jersey

STATE OF NEW JERSEY:
: SS
COUNTY OF ESSEX :

I, CORNELL JOEL GROSSMAN, of full age, being duly sworn according to Law, upon my oath depose and say:

1. I am the Appellant in the foregoing action.

2. I have served a copy of the within Appendix on Mr. Hayward Brown, Esq., the Counsel for the United States Atomic Energy Commission, by registered mail, return receipt requested, addressing it to Room 403, Machinists Building, 9th and Massachusetts Avenue, NW, U.S. Department of Justice, Patent Section Chief, Washington, D. C. This was mailed on April 26, 1957, Registered Mail.

Sworn to and Subscribed
before me this 26th day
of April, 1957

Mark T. Oliver

Cornell Joel Grossman, D.D.S.
Cornell Joel Grossman

Notary Public of New Jersey
My Commission Expires Feb. 7, 1960

BRIEF AND APPENDIX FOR RESPONDENT

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12959

CORNELL JOEL GROSSMAN, D. D. S., PETITIONER

v.

UNITED STATES OF AMERICA, UNITED STATES ATOMIC ENERGY COMMISSION, RESPONDENTS

ON PETITIONER'S MOTION TO REOPEN

GEORGE COCHRAN DOUB,
Assistant Attorney General.
OLIVER GASCH,
United States Attorney.
MELVIN RICHTER,
Attorney, Department of Justice.
WILLIAM W. FLEMING,
Attorney, Department of Justice.

Of Counsel:
EDWARD DIAMOND,
Deputy General Counsel,
United States Atomic Energy Commission.
ROLAND A. ANDERSON,
Chief, Patent Branch.
HARMON S. POTTER,
Attorney.

United States Court of Appeals
For the
District of Columbia Circuit

FILED MAR 22 1957

Joseph W. Stewart
CLERK

IN THE OPINION OF RESPONDENTS, THE FOLLOWING QUESTION IS PRESENTED

Is the petitioner entitled to an award under the Atomic Energy Act of 1946 or 1954, when the concepts here involved are not useful in the production of fissionable material, special nuclear material, or atomic energy, or in the utilization thereof, and where they have not been used by the Atomic Energy Commission in any manner, nor in connection with the atomic energy program.

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United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12959

CORNELL JOEL GROSSMAN, D. D. S., PETITIONER

v.

UNITED STATES OF AMERICA, UNITED STATES ATOMIC ENERGY COMMISSION, RESPONDENTS

ON PETITIONER'S MOTION TO REOPEN

BRIEF FOR RESPONDENTS

COUNTERSTATEMENT

1. This case involves a claim filed on April 20, 1954, by petitioner with the Atomic Energy Commission for an *award* under the Atomic Energy Act of 1946 (Respondents' App. 9).

2. Section 11 (e) (2) (C) of the Atomic Energy Act of 1946, as well as Section 157 b (3) of the Atomic Energy Act of 1954, provides for an award. These sections are quoted below:

> "SEC. 11. (e) (2) (C) Any person making any invention or discovery useful in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon who is not entitled to compensation therefor under subsection (a) and who has complied with subsection (a) (3) above may make application to the Commission for, and the Commission may grant, an award."
>
> "SECTION 157. b (3) Any person making any invention or discovery useful in the production or utilization

> of special nuclear material or atomic energy, who is not entitled to compensation or a royalty therefor under this Act and who has complied with the provisions of section 151 c. hereof may make application to the Commission for, and the Commission may grant, an award. * * *"

3. The present claim is based on alleged disclosures of concepts which may be generally characterized as within the field of chemistry, and which have been referred to as formula, formulas, process, processes, bomb, weapon and poisons (Respondents' App. 16, 18, 26, 38).

4. These concepts to some extent correspond to the contents of an application for patent which was filed on April 2, 1951, by the petitioner in the United States Patent Office, rejected and then abandoned (Respondents' App. 18, 19).

5. On October 25, 1955, and upon consideration of the entire record (Respondents' App. 16), the Patent Compensation Board of the Atomic Energy Commission entered its Findings of Fact, Determination, and Statement of Reasons, in which it found:

> (a) that the concepts are "* * * within the field of chemistry * * *" and "* * * are unrelated to atomic energy or its utilization * * *." (Respondents' App. 16).
>
> (b) that Dr. Grossman cross-examined the Atomic Energy Commission's witness, "* * * but no facts were developed which would indicate that the subject matter of the various disclosures by applicant related in any way to the utilization of fissionable material or atomic energy for a military weapon, or in fact related in any way to the subject of nuclear materials, the processes of fission or fusion, or any aspect of the field of atomic energy as that term is understood in consideration of the atomic energy legislation." (Respondents' App. 20.)
>
> (c) that the concepts contain "* * * no teaching which has been used by the Atomic Energy Commission of the United States, or which is useful or may be use-

> ful in the utilization of atomic energy for a military weapon or for any peaceful application of that science." (Respondents' App. 20.)

6. Thereafter, petitioner appeared before this Court, and on his motion, this Court by order of February 10, 1956, remanded the case to the Atomic Energy Commission in order that petitioner might there seek the administrative relief he believes himself entitled to (Respondents' App. 22).

7. Pursuant to such Order, a hearing was ordered and held by the Patent Compensation Board of the Atomic Energy Commission and petitioner was provided with an opportunity to present again in full his claim and all evidence of which he then had knowledge (Respondents' App. 30, 35). At the hearing, petitioner presented orally his position, was examined by counsel for the Atomic Energy Commission, and had an opportunity to examine the witness appearing in behalf of the Commission (Respondents' App. 30).

8. After petitioner requested in writing that the case be passed upon by the Board "with no further hearing, and no further data from me * * *" (Respondents' App. 35), the Board handed down on November 26, 1956, its Findings of Fact, Determination and Statement of Reasons (Respondents' App. 25–36) in which it stated:

> Any disclosure that applicant has testified to before this Board is essentially chemical in character and at most, a speculative and conjectural conception of a weapon which is not atomic in character but one dependent upon chemical reactions for detonation and destructive effects. * * * The evidence * * * does not justify any modification of our previous determination (Respondents' App. 36).

9. On January 9, 1957, petitioner's Motion to Reopen was filed in this court, pursuant to its Order of that date (Respondents' App. 37).

10. Under Section 189 (b) of the Atomic Energy Act of 1954 (Respondents' App. 11) and Sections 2, 3, and 7 of the Act of December 29, 1950 (Respondents' App. 12–13), this Court has unquestioned jurisdiction to review the Determina-

tion of November 26, 1956, of the Patent Compensation Board insofar as it relates to the denial of "an Award" under Section 11 (e) (2) (C) of the Atomic Energy Act of 1946, or Section 157 b (3) of the Atomic Energy Act of 1954.

11. The Act of December 29, 1950 (Respondents' App. 12–13) further provides in Section 6 for the filing of the record on review by the governmental agency involved.

12. As provided in Section 7 (a) of the 1950 Act (Respondents' App. 13), the petition is to be heard "upon the record of the pleadings, evidence adduced, and proceedings before the agency" which has in fact held the hearing ordered by this Court on February 10, 1956.

13. This Court has once enabled the present petitioner to obtain all the benefits of its remanding procedure (Respondents' App. 22), and is confronted with no relevant or material reason for its repetition.

14. This Court has considered fully, and by orders of January 9, 1957, denied, petitioner's request that the record be impounded (Respondents' App. 37, 39).

SUMMARY OF ARGUMENT

1. Petitioner is not entitled to an award under the Atomic Energy Acts. His concepts are unrelated to the production or utilization of fissionable material, special nuclear material, or atomic energy and have not been used by the Atomic Energy Commission.

2. Petitioner has received the benefits of the remanding procedure which he now requests.

3. Petitioner has previously obtained this Court's careful consideration and action on his request for impounding of the record.

ARGUMENT

Petitioner is not entitled to an award under the Atomic Energy Act

Petitioner's claim was filed during the pendency of the Atomic Energy Act of 1946, and is for "an award" (Atomic Energy Act of 1946, Sec. 11 (e) (2) (C); Respondents' App. 9).

The Atomic Energy Act of 1954 which is an amendment of the earlier act, also provides for "an award" under certain conditions and for a review by this Court (Sections 157 (b) (3) and 189; Respondents' App. 10, 11).

The award provided for in the Atomic Energy Acts is available, under certain circumstances, to any person making any invention or discovery useful in the production of fissionable material, special nuclear material, or atomic energy or in the utilization thereof.

Petitioner's concepts, which are adequately set out in the Determinations of October 25, 1955, and November 26, 1956, of the Patent Compensation Board, are of chemical reactions and properties and in the chemical field, and have no relation to the production or utilization of fissionable material, special nuclear material, or atomic energy. Likewise, petitioner's concepts are unrelated to the Kyoto Report, to which petitioner has made reference, as such report deals unmistakably with radioactive *fallout* and *other results* of a thermonuclear detonation (Respondents' App. 35).

The dissimilarity between petitioner's concepts and the field to which the Atomic Energy Acts is directed was fully established by the testimony of Lieutenant Colonel Vance H. Hudgins, United States Marine Corps, who appeared as a witness before the Patent Compensation Board, who was qualified to speak on the subject in controversy, and who was cross-examined by petitioner (Respondents' App. 22–25).

The record before the Patent Compensation Board clearly established that petitioner's conceptions do not fall within the Atomic Energy Act, and do not disclose any useful teaching in the fields for consideration in the grant of an award. *Fletcher et al.* v. *United States Atomic Energy Commission,* 89 U. S. App. D. C. 218, 192 F. 2d 29, cert. den., 342 U. S. 914.

Petitioner's reference in the first paragraph of page 3 of his brief to a statement of the Patent Compensation Board is best answered and corrected by quoting below the statement itself:

> Dr. Grossman has disclosed no materials, methods, formula, or weapon that is dependent upon atomic energy or the nuclear reaction as that term is under-

> stood. His teachings have not been utilized by the Atomic Energy Commission and, if evaluated objectively, disclose no useful knowledge in the field of atomic weapons or the utilization of nuclear energy. (Respondents' App. 35.)

The statement quoted in the first paragraph of page 4 of petitioner's brief does not appear in the record, and perhaps is best answered by quoting below, a holding that he may have had in mind.

> On the contrary, it is evident that all of Dr. Grossman's asserted disclosures are of chemical reactions and properties—some of it unconventional chemistry in which proponent disagrees with the standard authorities and authoritative texts in the field of chemistry—whereas the Kyoto Report deals unmistakably with radioactive fallout and other results of a thermonuclear detonation. (Respondents' App. 35.)

Petitioner's references in his brief to such matters as "a crater of 100,000 cubic yards" and "the temperature of the atomic reactions in the Sun" are clearly immaterial and irrelevant.

The record shows that petitioner has had a full opportunity to present his claim for an award and has failed to meet the statutory requirements for such an award.

Clearly, the petitioner's concepts do not afford a basis for recovery under the Atomic Energy Acts.

Petitioner has received the benefits of the remanding procedure which he now requests

Petitioner in both his "Motion" filed January 9, 1957, and his Brief filed February 26, 1957, requests that this case be remanded.

On this point, it is believed to be sufficient to note—

1. that when this claim was previously before this Court, a request for a remanding order was granted (Respondents' App. 22),

2. that pursuant to the previous remanding order, petitioner received a full hearing before the Patent Compensation Board and then had an opportunity to present all of his evidence having any bearing on his claim (Respondents' App. 25–36), and

3. that said hearing concluded on petitioner's representation that he had completed the presentation of his case to the Board (Respondents' App. 35).

Accordingly, the request lacks substance and presents no proper basis for compliance therewith.

Petitioner has previously obtained this Court's careful consideration and action on his request for impounding the record

Petitioner's current prayer for an impounding of the record is well answered by the record itself.

First, earlier requests to impound the record were carefully and fully considered by this Court and denied (Respondents' App. 37, 39).

Second, petitioner bases his request on his representation that his concept is the "Atomic H-Bomb Formula" (Pet. brief, p. 4), whereas the contrary is established by the record (Respondents' App. 35, 36).

Third, petitioner fails to present any substantial reason that justifies the requested action.

The Court's earlier denial of this request clearly is proper and should remain unaltered.

CONCLUSION

The findings of fact of the Patent Compensation Board are sound, supported by substantial evidence, and lawful.

Petitioner does not have a valid claim under the Atomic Energy Acts, and the determination made by the Commission through the action of the Patent Compensation Board should be affirmed.

Respectfully submitted.

GEORGE COCHRAN DOUB,
Assistant Attorney General.
OLIVER GASCH,
United States Attorney.
MELVIN RICHTER,
Attorney, Department of Justice.
WILLIAM W. FLEMING,
Attorney, Department of Justice.

Of Counsel:
EDWARD DIAMOND,
Deputy General Counsel,
United States Atomic Energy Commission.
ROLAND A. ANDERSON,
Chief, Patent Branch.
HARMON S. POTTER,
Attorney.

RESPONDENT'S APPENDIX

Atomic Energy Act of 1946 (Public Law 585, 79th Congress, chapter 724, 2d Session; 60 Stat. 755, 769)

SEC. 11. (e) COMPENSATION AWARDS, AND ROYALTIES.

(1) *Patent Compensation Board.*—The Commission shall designate a Patent Compensation Board, consisting of two or more employees of the Commission, to consider applications under this subsection.

(2) *Eligibility.*—

* * * * *

(C) Any person making any invention or discovery useful in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon who is not entitled to compensation therefor under subsection (a) and who has complied with subsection (a) (3) above may make application to the Commission for, and the Commission may grant, an award.

* * * * *

(3) *Standards.*—

(A) In determining such reasonable royalty fee, the Commission shall take into consideration any defense, general or special, that might be pleaded by a defendant in an action for infringement, the extent to which, if any, such patent was developed through federally financed research, the degree of utility, novelty, and importance of the invention or discovery, and may consider the cost to the owner of the patent of developing such invention or discovery or acquiring such patent.

(B) In determining what constitutes just compensation under subsection (a), (b), or (d) above, the Commission shall take into account the considerations set forth in paragraph (A) above, and the actual use of such invention or discovery, and may determine that such compensation be paid in periodic payments or in a lump sum.

(C) In determining the amount of any award under paragraph (2) (C) of this subsection, the Commission shall take into account the considerations set forth in paragraph (A) above, and the actual use of such invention or discovery. Awards so made may be paid by the Commission in periodic payments or in a lump sum.

Atomic Energy Act of 1954 (Public Law 703; 83d Congress, chapter 1073, 2d Session; 68 Stat. 919, 947, 955, 956, approved August 30, 1954)

AN ACT TO AMEND THE ATOMIC ENERGY ACT OF 1946, AS AMENDED, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Atomic Energy Act of 1946, as amended, is amended to read as follows:

* * * * *

SEC. 157. COMPENSATION, AWARDS, AND ROYALTIES.

a. *Patent Compensation Board.*—The commission shall designate a Patent Compensation Board to consider applications under this section.

* * * * *

b. *Eligibility.*—

* * * * *

(3) Any person making any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, who is not entitled to compensation or a royalty therefor under this Act and who has complied with the provisions of section 151 c. hereof may make application to the Commission for, and the Commission may grant, an award.

* * * * *

c. *Standards.*—

(1) In determining a reasonable royalty fee as provided for in subsections 153 b. or 153 e., the Commission shall take into consideration (A) the advice of the Patent Compensation

Board; (B) any defense, general or special, that might be pleaded by a defendant in an action for infringement; (C) the extent to which, if any, such patent was developed through federally financed research; and (D) the degree of utility, novelty, and importance of the invention or discovery, and may consider the cost to the owner of the patent of developing such invention or discovery or acquiring such patent.

(2) In determining what constitutes just compensation as provided for in section 151, or in determining the amount of any award under subsection 157 b. (3), the Commission shall take into account the considerations set forth in subsection 157 c. (1) and the actual use of such invention or discovery. Such compensation may be paid by the Commission in periodic payments or in a lump sum.

* * * * *

SEC. 189. HEARINGS AND JUDICIAL REVIEW.

a. In any proceeding under this Act, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award or royalties under sections 153, 157, 186 c., or 188, the Commissioner shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding.

b. Any final order entered in any proceeding of the kind specified in subsection a. above shall be subject to judicial review in the manner prescribed in the Act of December 29, 1950, as amended (ch. 1189, 64 Stat. 1129), and to the provisions of section 10 of the Administrative Procedure Act, as amended.

The Act of December 29, 1950 (Public Law 901, 81st Congress, chapter 1189, 2d session; 64 Stat. 1129, 1130, 1131)

JURISDICTION

* * * * *

SEC. 2. * * * *

Such jurisdiction shall be invoked by the filing of a petition as provided in section 4 hereof.

VENUE

SEC. 3. The venue of any proceeding under this Act shall be in the judicial circuit wherein is the residence of the party or any of the parties filing the petition for review, or wherein such party or any of such parties has its principal office, or in the United States Court of Appeals for the District of Columbia.

REVIEW OF ORDERS

SEC. 4. Any party aggrieved by a final order reviewable under this Act may, within sixty days after entry of such order, file in the court of appeals, wherein the venue as prescribed by section 3 hereof lies, a petition to review such order.

* * * * *

RECORD TO BE CERTIFIED

SEC. 6. Within the time prescribed by, and in accordance with the requirements of, rules promulgated by the court of appeals in which the proceeding is pending, unless the proceeding has been terminated on a motion to dismiss the petition, the agency shall file in the office of the clerk the record on review, duly certified, consisting of the pleadings, evidence, and proceedings before the agency, or such portions thereof as such rules shall require to be included in such record, or such portions thereof as the petitioner and the agency, with the approval of the court of appeals, shall agree upon in writing.

PETITIONS HEARD ON RECORD BEFORE RESPONDENT

SEC. 7. (a) Petitions to review orders reviewable under this Act, unless determined on a motion to dismiss the petition, shall be heard in the court of appeals upon the record of the pleadings, evidence adduced, and proceedings before the agency where the agency has in fact held a hearing whether or not required to do so by law.

* * * * *

JURISDICTION OF PROCEEDING

SEC. 9 (a) Upon the filing and service of a petition to review, the court of appeals shall have jurisdiction of the proceeding. The court of appeals in which the record on review is filed, on such filing, shall have jurisdiction to vacate stay orders or interlocutory injunctions theretofore granted by any court, and shall have exclusive jurisdiction to make and enter, upon the petition, evidence, and proceedings set forth in the record on review, a judgment determining the validity of, and enjoining, setting aside, or suspending, in whole or in part, the order of the agency.

Administrative Procedure Act (Public Law 404; 79th Congress, chapter 324, 2d Session; 60 Stat. 237, 243–244; approved June 11, 1946)

JUDICIAL REVIEW

SEC. 10. Except so far as (1) statutes preclude judicial review or (2) agency action is by law committed to agency discretion—

(a) *Right of Review.*—Any person suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof.

(b) *Form and Venue of Action.*—The form of proceeding for judicial review shall be any special statutory review proceeding relevant to the subject matter in any court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action (including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus) in any court of competent jurisdiction. Agency action shall be subject to judicial review in civil or criminal proceedings for judicial enforcement except to the extent that prior, adequate, and exclusive opportunity for such review is provided by law.

(c) *Reviewable Acts.*—Every agency action made reviewable by statute and every final agency action for which there is no other adequate remedy in any court shall be subject to judicial review. Any preliminary, procedural, or intermediate agency action or ruling not directly reviewable shall be subject to review upon the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final shall be final for the purposes of this subsection whether or not there has been presented or determined any application for a declaratory order, for any form of reconsideration, or (unless the agency otherwise requires by rule and provides that the action meanwhile shall be inoperative) for an appeal to superior agency authority.

(d) *Interim Relief.*—Pending judicial review any agency is authorized, where it finds that justice so requires, to postpone the effective date of any action taken by it. Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, every reviewing court (including every court to which a case may be taken on appeal from or upon application for certiorari or other writ to a reviewing court) is authorized to issue all necessary and appropriate process to postpone the effective date of any agency action or to preserve status or rights pending conclusion of the review proceedings.

(e) *Scope of Review.*—So far as necessary to decision and where presented the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of any agency action. It shall (A) compel agency action unlawfully withheld or unreasonably delayed; and (B) hold unlawful and set aside agency action, findings, and conclusions found to be (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedure required by law; (5) unsupported by substantial evidence in any case subject to the requirements of sections 7 and 8 or otherwise reviewed on the record of an agency hearing provided by statute; or (6) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. In making the foregoing determinations the court shall review the whole record or such portions thereof as may be cited by any party, and due account shall be taken of the rule of prejudicial error.

United States Atomic Energy Commission
Patent Compensation Board

(Docket No. 17)

IN RE APPLICATION OF CORNELL JOEL GROSSMAN

Appearances: Roland A. Anderson, Harmon S. Potter, Office of the General Counsel.

Before: Casper W. Ooms, John V. L. Hogan, Isaac Harter, Patent Compensation Board.

By the Board.

FINDINGS OF FACT, DETERMINATION, AND STATEMENT OF REASONS BY THE BOARD

Upon examination of the application in this case, together with the Motion to Dismiss filed herein by the Office of the General Counsel of the Atomic Energy Commission, the Patent Compensation Board drafted its Proposed Findings of Fact, Proposed Determination and Statement of Reasons and served applicant with a request upon hearing to show why these could not appropriately be entered in this case.

Applicant was given the hearing provided for by the regulations before the entire Board on March 9, 1955, at which time applicant was heard in support of his application, and the Office of General Counsel was provided an opportunity to submit to the Board any considerations which it believed to be pertinent in the proceedings.

Following the hearing applicant was given an opportunity to supplement the record with additional material. Both applicant and the Office of the General Counsel submitted proposed findings and determination. Upon consideration of the entire record, the Board enters these Findings, Determination and Statement of Reasons:

FINDINGS OF FACT

1. Applicant has filed an application for an award of Two Hundred Twenty-Five Thousand Dollars ($225,000.00) under the Atomic Energy Act of 1946, alleging that he had delivered to officers of the United States the disclosures of several military weapons.

2. Applicant's elaborate file of documents in support of his application discloses descriptions of a number of concepts within the field of chemistry that are unrelated to atomic energy or to its utilization, and inasmuch as the subject matter of these contributions does not permit their consideration by this Board for possible award under the Atomic Energy Act, they need not be considered here.

3. Typical of the disclosures upon which applicant bases his claim, are those described in the following paragraphs taken from the application:

> 1. The process of producing a bomb or weapon of chemical warfare by using one or more High Frequency, High Voltage Electro Thermic Induction furnaces, coils or devices to explode, vaporize, disintegrate, or electrically activate or ionize elements, compounds, ions, mixtures or containers or metals into explosive, pyrophoric, or chemical warfare poisons, or poison pyrophoric gases, or incendiary products, said electrically induced material may be exploded in the induced atmosphere or out of it, or said products may be interacted with each other to explode or result in military poisons or explosive. An example of incendiary corrosive Fluorine Gas, an example of body irritant resulting in cancerogenous tissue being Arseno Fluoride, an example of an ionization of the atmosphere being Fluorine in that it reacts with

the water of the atmosphere to produce corrosive ionic Hydro Fluoric Acid gas and Ionic Ozone. An example of the production of war gas that is explosive being Arsenuous Fluoride interaction with Hydrogen and Uranium powder or pyrophoric Uranium Oxide. Zirconium powder with potasium nitrate being an example of explosive metal when subjected to superhigh electrical induction. The explosion of Hydrogen product of this induction with Fluorine is an example of Corrosive Chemical Poison produced by induction electrically.

* * * * *

The production of two or more explosive vapors in one or more induction furnaces, and interaction explosively of these into a military weapon or weapons, such as the Vapor of Hydrogen with that of Fluorine, or that of Ammonia with that of Hydro-Cyanogen, with or without catalytic powder metals, catalysts, or Elements such as Radium, Thorium, Zirconium, *Uranium,* Magnesium, Aluminum, Lithium, Sodium, Titanium and the like.

* * * * *

The production of a bomb or poison by placing powdered Uranium in the crucible of a High Voltage High Frequency Electro Thermic Furnace, heating to the utmost temperature, allowing it to explode by its own heat, or by the addition of Potassium Nitrate and Zirconium Powder, or Zirconium Powder with Ammonium Nitrate, Gun Powder or other explosive powder or other means of explosion. The Oxide of Uranium or the Fluoride can be substituted for the metal. Tanks of Arsenic and Hydrogen, and Fluorine can be adjuvants along with Cyanogen or Hydro Cyanics.

* * * * *

The Nitro Hydrogen Bomb—(Tri Nitro Tri Hydrogen) made from Ammonium Nitrate, Arsenic, and Hydrocyanic Acid. Catalyst-Platinum, Palladium, and other or other catalysts.

This invention relates to the processes of decomposing matter into its constituent parts by placing the matter in a sealed container, placing the container in an electro-thermic induction furnace, using high frequency high voltage, to tear the matter into its constituents super atomically and either leading the parts off into a container, or exploding them from the heat generated, or exploding them by interaction with each other or by a spark, or electric arc, or silent arc, or other means, and has for its object to obtain explosives or useful ions for chemical warfare or other use.

For example a tank of Compressed Hydrogen or other matter is placed in the induction furnace, and the High Frequency High Voltage Current tears the Hydrogen into its parts, the heat increasing quickly to the explosion point, or a spark or arc in or near the tank can be used as a detonating agent. Naturally timers, fuses, detonating agents, proximity fuses, can be used with this invention. Besides the Hydrogen we might have other tanks in the crucible containing other agents, for example Fluorine, or decomposable Fluoride such as that of Hydrogen, Zirconium, Titanium, Tungsten, Uranium, Ammonium, and double fluorides said product of the Fluoride or Fluorine exploding on contact with the Hydrogen, or being detonated with it. Or explosive powders such as Uranium, Zirconium, Magnesium, Cerium, and the like may be used alone, or in combination with the Hydrogen, and Fluorine and the like, to enhance the heat, brilliance and explosive power damage or use. Potassium Nitrate, Ammonium Nitrate, Sodium Nitrate, Lithium Nitrate, and the like added to the powder enhances explosion. Silver Nitrate acts photographically in the explosion.

4. Applicant also filed an application for a United States patent in the United States Patent Office on April 2, 1951 under the subject "Processes of Decomposing Matter into Its Constituent Parts and Interacting These Parts for Chemical Warfare or Other Use". That application was rejected by the United States Patent Office and has since become abandoned.

To some extent the contents of that patent application correspond to and relate to the general subject matter quoted in Finding 3. Typical of its content is this Claim 1:

> 1. The process of producing a bomb or weapon of chemical warfare by using one or more High Frequency, High Voltage Electro Thermic Induction furnaces, coils, or devices to explode, vaporize, disintegrate, or electrically activate or ionize elements, compounds, ions, mixtures or containers or metals into explosive, pyrophoric, or chemical warfare poisons, or poison pyrophoric gases, or incendiary products, said electrically induced material may be exploded in the induced atmosphere or out of it, or said products may be interacted with each other to explode or result in military poisons, or explosive. An example of incendiary corrosive being Fluorine Gas, an example of body irritant resulting in cancerogenous tissue being Arseno Fluoride, an example of an ionization of the atmosphere being Fluorine in that it reacts with the water of the atmosphere to produce corrosive ionic Hydro Fluoric Acid gas and ionic Ozone. An Example of the production of a war gas that is explosive being Arsenious Fluoride interaction with Hydrogen and Uranium powder or pyrophoric Uranium Oxide. Zirconium powder with potassium nitrate being an example explosive metal when subjected to super high electrical induction. The explosion of Hydrogen product of this induction with Fluorine is an example of Corrosive Chemical Poison produced by induction electrically.

5. The subject matter of the patent application referred to is within the field of chemistry but does not relate to atomic energy or its utilization for a military weapon.

6. Applicant filed his claim on April 20, 1954 and states this his disclosure was variously made "shortly after Pearl Harbor Day" and as late as October, 1949.

7. Since filing his application applicant has filed a substantial collection of documents for the purpose of showing that applicant did at or about the time of Pearl Harbor begin to devote himself exclusively to the problems of the design

of military weapons and did, in that connection, expend rather substantial sums of money and set up a rather elaborate machine shop for that purpose. There is no disclosure that this effort was related to the problems of nuclear energy and its utilization. Applicant also alleges that he gave up the practice of dentistry throughout the war to pursue this purpose.

8. The Office of the General Counsel has filed in this proceeding the affidavit of Colonel Elmer T. Dorsey, a colonel in the United States Marine Corps, graduated from the United States Naval Academy in 1935. Colonel Dorsey is now associated with the Atomic Energy Commission as Chief of the Research and Development Branch of the Division of Military Application of the Commission. His duties include the evaluation of ideas of potential interest to the military program of the Atomic Energy Commission. The affidavit of Colonel Dorsey states that he has read this application and:

> Without in any way revealing classified information, I can state to the best of my information and belief that none of the ideas or combinations of materials described in this application have been used in the weapons program either by the Commission or its predecessor, the Manhattan Engineer District. I can further state that the said ideas and combinations of materials disclose no atomic weapons, nor do they contain anything useful in the utilization of fissionable material or atomic energy for a military weapon.

9. Colonel Dorsey appeared at the hearing and testified in full corroboration of the contents of his affidavit quoted in Finding 8. He was cross-examined by applicant but no facts were developed which would indicate that the subject matter of the various disclosures by applicant related in any way to the utilization of fissionable material or atomic energy for a military weapon, or in fact related in any way to the subject of nuclear materials, the processes of fission or fusion, or any aspect of the field of atomic energy as that term is understood in consideration of the atomic energy legislation.

10. The disclosures which applicant said he made to officers of the United States, upon which he bases his claim for an award

in this case, contain no teaching which has been used by the Atomic Energy Commission of the United States, or which is useful or may be useful in the utilization of atomic energy for a military weapon or for any peaceful application of that science.

DETERMINATION

Applicant is not entitled to any award under the Atomic Energy Act of 1946 or the Atomic Energy Act of 1954, because, as appears from the disclosures themselves and from the testimony of Colonel Dorsey, the disclosures made in the application and upon the hearing do not reveal teachings that have been or are useful to the utilization of atomic energy either for military weapons or for other purposes.

STATEMENT OF REASONS

Section 11 (a) (3) of the Atomic Energy Act of 1946 requires that any person who has made or makes any invention or discovery useful in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon shall file with the Atomic Energy Commission a report containing a complete description thereof unless the disclosure has been made in an application filed in the United States Patent Office for a patent. The time for filing such application or such report is, under the facts alleged by applicant in this case, not later than sixty (60) days after the enactment of the Atomic Energy Act of 1946, in other words, sixty (60) days after August 1, 1946. Applicant has failed to comply with this requirement for reporting.

While it would satisfy the requirements of the Atomic Energy Act to give as a reason for the denial of any award to applicant in this proceeding, that the statutory requirements of timely disclosure of the subject matter other than that covered by applicant's patent application has been ignored, a requirement which this Board may not waive or overlook, the Board has nevertheless further examined the details of the several disclosures asserted to have been made by applicant, has patiently heard applicant and has received all the materials he desired to present. Nevertheless, the Board finds that they contain no teaching which has contributed to, the employment of atomic energy in the field of weapons or in the field of peaceful utilization.

Casper W. Ooms, *Chairman.*
John V. L. Hogan,
Isaac Harter,
Patent Compensation Board.

Dated: Washington 25, D. C., October 25, 1955.

UNITED STATES COURT OF APPEALS

For the District of Columbia Circuit

* * * * *

Filed February 10, 1956

ORDER

Upon consideration of petitioner's motion to remand this case to the Atomic Energy Commission for reconsideration and to permit petitioner to file typewritten briefs, it is

Ordered by the Court that insofar as petioner moves to remand this case, said motion be granted, and that this case be, and it is hereby, remanded to the Atomic Energy Commission, in order that petitioner may there seek the administrative relief he believes himself entitled to.

It is further ordered by the Court that insofar as petitioner moves for leave to file typewritten briefs, said motion be, and it is hereby, dismissed as moot.

Per Curiam.

TESTIMONY OF LIEUTENANT COLONEL VANCE H. HUDGINS, UNITED STATES MARINE CORPS, BEFORE THE PATENT COMPENSATION BOARD ON OCTOBER 15, 1956

Chairman Ooms. Please state your name for the record.

The Witness. Lieutenant Colonel Vance H. Hudgins, U. S. Marine Corps.

Chairman Ooms. Are you the Colonel Hudgins who filed an affidavit in this matter, executed the 15th of May of this year?

The Witness. Yes, sir.

Chairman Ooms. You have a copy, Dr. Grossman.

Dr. Grossman. Yes.

Chairman Ooms. Colonel Hudgins, will you give us briefly a statement of your training and background in the matter of atomic weapons and the utilization of nuclear energy?

The Witness. I spent three years of graduate work at Johns Hopkins University.

Chairman Ooms. What years were those, Colonel?

The Witness. One year at the postgraduate school in Annapolis in 1947 and two years at Johns Hopkins in 1948 and 1949, I think.

Chairman Ooms. Are you a graduate of the United States Naval Academy?

The Witness. Yes, sir.

Chairman Ooms. In what year?

The Witness. 1941.

Chairman Ooms. Will you proceed, then. You had three years of post graduate work after that?

The Witness. Yes, sir.

Chairman Ooms. In what fields?

The Witness. In ordnance engineering.

Chairman Ooms. Tell us your experience after that.

The Witness. I had two years with the Department of Navy in their atomic energy field and was project officer on developing several of our weapons.

Chairman Ooms. Those are weapons of an atomic character?

The Witness. Yes, sir. They were under contract to the Atomic Energy Commission at that time. I have served for the last two years with the Division of Military Applications in the Atomic Energy Commission in the Research and Development Branch.

Chairman Ooms. Where are you assigned at the present time?

The Witness. I am assigned to the Research and Development Branch of the Division of Military Applications, Atomic Energy Commission.

Chairman Ooms. Does your work in that Branch require you to work with or in the field of atomic weapons and the utilization of nuclear energy?

The Witness. It does.

Chairman Ooms. Colonel Hudgins, you have, as I understand it, examined the documents which have been filed here by Dr. Grossman, specifically, his original application in this case and subsequent to the remand, his statement with respect to the Kyoto report. Have you studied those documents?

The Witness. Yes, sir. I have studied those in detail.

Chairman Ooms. Have you read the Kyoto report?

The Witness. Yes, sir. I have.

Chairman Ooms. And you have attended the hearing this morning at which the Doctor has been testifying.

The Witness. Yes, sir.

Chairman Ooms. Did you attend the previous hearing in May, 1955?

The Witness. No, sir. This was Colonel Dorsey.

Chairman Ooms. This is your first meeting with Dr. Grossman?

The Witness. Yes, sir.

Chairman Ooms. Colonel Hudgins, do you find anywhere in the documents filed with the Patent Compensation Board by the applicant, Dr. Grossman, any disclosure of a formulation, a process or a method, or a structure which would constitute an atomic weapon?

The Witness. No, sir, none.

Chairman Ooms. Do you find anywhere in those disclosures any discussion of a procedure, method, substance or device for the utilization of atomic energy?

The Witness. No, sir.

Chairman Ooms. Have you read the Kyoto report, Colonel?

The Witness. Yes, sir.

Chairman Ooms. Do you find anything in the Kyoto report that discloses assumptions of the use of any of the materials, not individually, but in the combination suggested in the Dr. Grossman papers?

The Witness. No, sir. I could go farther and say that the isotopes listed on page 59 of this report were not constituents of the bomb that we detonated. The source of these isotopes could have been from transmutation of elements in the vicinity of the nuclear detonation, from the water, from the coral, from the air or other materials. They were not constituents of the bomb.

Chairman Ooms. Can you state from your knowledge and without penetrating classified matters whether or not the substances in the combinations and the changes and modifications suggested in Dr. Grossman's papers have been used by the Atomic Energy Commission, either as constituents for atomic weapons or in the utilization of nuclear energy?

The Witness. No, sir. They have not.

Chairman Ooms. Do any of the other Board members want to ask Colonel Hudgins any questions?

Mr. Hogan. I have none.

Mr. Harter. No.

Chairman Ooms. Dr. Grossman, would you like to ask Colonel Hudgins any questions?

Dr. Grossman. I would like to, * * *.

United States Atomic Energy Commission
Patent Compensation Board

(Docket No. 17)

IN RE APPLICATION OF

CORNELL JOEL GROSSMAN

Appearances: Ronald A. Anderson, Harmon S. Potter, Office of the General Counsel.

Before: Casper W. Ooms, John V. L. Hogan, Isaac Harter, Patent Compensation Board.

By the Board.

FINDINGS OF FACT, DETERMINATION AND STATEMENT OF REASONS BY THE BOARD

DETERMINATION UPON PETITION FOR REHEARING

After determination of this application entered October 25, 1955, Applicant took an appeal (No. 12959) to the Court of

Appeals for the District of Columbia and there filed a document entitled "Appellant's Brief on New Evidence that U. S. A. Used Appellant's Atomic-Hydrogen-Thermonuclear Formulas in all Detonations at First Test, Hiroshima, Nagasaki, Bikini, Ivy, and Others."

In that Brief Appellant stated:

> The ingredients of the formula given to the U. S. A. for the Atomic H Bombs, by Dr. Cornell Grossman were ALL IN THE RADIOACTIVE DUST FROM THE NUCLEAR DETONATION that took place on Bikini Atoll on March 1, 1954.
>
> The Institute for Chemical Research of Kyoto University, in Kyoto, Japan, published a large monograph on the FALL OUT, and specifically named Dr. Grossman's ingredients.
>
> The ingredients that go into a bomb, come out of the bomb in reaction and effect forms.
>
> If the U. S. A. did not use Dr. Grossman's formula, how did his ingredients come out of the bomb?
>
> To maintain national security, Dr. Grossman made a detailed synopsis of the Japanese Kyoto Report and is mailing this synopsis to the U. S. A. E. C., Counsel, specifically pointing out each of Dr. Grossman's ingredients in the Fall Out, as shown by the Kyoto University tests.
>
> For security reasons since this is the formula of the complete bomb it is not being mailed to this court.
>
> * * * * *
>
> The Kyoto University Doctors, Chemist and Physicists published a bulletin on November 1, 1954, in which they mentioned finding the ingredients of the bomb which are identical with the ingredients of the bomb given by Dr. Cornell Grossman to the government of the United States at about the time of Pearl Harbor Day and thereafter.
>
> This analysis by the Japanese will go down in history to those versed in the art as the most magnificent piece

of deduction by scientific means ever achieved by mankind.

It is so thorough that there is no doubt that should they wish to, these Japanese scientists could duplicate the bomb from their observations.

In 133 pages of photographs, charts and concise statements of findings, they repeat all of the ingredients or the effects of these ingredients that Dr. Grossman put into this bomb formula.

The tests analysing the dust were made on surveys of the Radioactive Contamination of the No. 5. Fukuryu Maru. The reactions disclosed were identical with Dr. Grossman's chemical ingredients.

The United States Government told me at the time of Pearl Harbor Day that they would pay me well if I increased the fire power of our military weapons.

* * * * *

Specifically, Colonel Dwight David Eisenhower said this to me in his office of the Chief of the Anti-Tank, Colonel Eisenhower asked me to give him a formula to penetrate the armor of the German tanks in North Africa, and I gave him the formula for the Atomic H Bombs which were used by the United States without notification or compensation to me. Colonel Eisenhower refused to let me make these bombs for him although I could have made enough of them within five months of Pearl Harbor Day to end the war and the cost would probably not have been much over $100,000. The formula was also given to the Inventor's Council and written down by the man designated to me by Mr. Jerome Burke.

The Japanese Bulletin has shown my ingredients by its Studies on the Properties and Size of the Radioactive Ashes Obtained from the No. 5 Fukuryu Maru, and Radioautographic Studies, and by Colloid Morphological and Crystalline Studies of "Bikini Dust" and by Radioautographic Studies of the Materials from the boat and by Studies on the Contamination of the Fishes,

> and Foods from the Fishes of the Fortunate Dragon, and by Radiochemical Analysis of the Bikini Ashes, and by Analysis of Carrier Free Radiosotopes by Paper Chromatography.
>
> * * * * *
>
> All of the findings showed the ingrediants that came out of the bomb to be the same as those of the ingredients of the bomb formula given by Dr. Grossman to the U. S. A., for compensation, and the extraneous ingredients were all members of the same group chemicals and were interchangeable with the ingredients in their effects and actions without the departure from the scope of this invention. Extraneous ingredients included the impurities associated with the formulary and the end products of their interaction and effects on materials poisoned by them. No more potent ingredients are known on this earth and by their interaction and synergism give the detonations which can make a hell on earth. To date these detonations have deterred the major powers from going to war directly with each other and by ending the war have done more good than harm.

Thereupon, on February 10, 1956, the Court of Appeals ordered the application remanded to the Atomic Energy Commission in accordance with the prayer of Applicant in his statement to the Court:

> Appellant prays that this court will order the Atomic Energy Commission to reconsider its decision in view of this new evidence.

A hearing of the Petition for Rehearing on the newly discovered evidence was ordered by the Patent Compensation Board for May 15, 1956, but was postponed because of the illness of members of the Board. The Office of the General Counsel of the Atomic Energy Commission then filed with the Board and served upon Applicant the Affidavit of Lt. Col. Vance H. Hudgins, a member of the Research and Development Branch of the Division of Military Application of the United States Atomic Energy Commission. Col. Hudgins, a graduate of the United States Naval Academy with graduate training at Johns Hopkins University and several years of experience with the Bureau of Ordnance, Navy Department, as Project Officer for the development of atomic weapons stated in this Affidavit:

> I have read the Grossman application filed in the subject docket, together with the affidavit filed therein by Col. Elmer T. Dorsey, U. S. M. C., the record of the hearing held on March 9, 1955, the Findings of Fact, Determination and Statement of Reasons by the Board dated October 25, 1955, and the Bulletin of the Institute for Chemical Research, Kyoto University, Supplementary Issue, dated November, 1954, entitled "The Radioactive Dust From The Nuclear Detonation."
>
> I concur with the statements made by Col. Dorsey, and to the best of my information and belief none of the ideas or combinations of materials described in the subject application have been used in the weapons program either by the Commission or its predecessor the Manhattan Engineer District. I further agree with Col. Dorsey's statement that the said ideas and combinations of materials disclose no atomic weapons, nor do they contain anything useful in the utilization of special nuclear material or atomic energy in an atomic weapon. I can find nothing in the Bulletin of the Institute for Chemical Research of Kyoto University, Supplementary Issue, which either directly or by implication suggests that any of the alleged inventions of Dr. Grossman as shown in this application and summarized in Finding of Fact No. 3 of the Patent Compensation Board were used in the device which produced the fall-out which constitutes the subject matter of the Kyoto University report.

Applicant then filed with the Patent Compensation Board a general presentation of his position, similar in content to his statement to the Court of Appeals, containing both a brief reference to the Kyoto Report,[1] which he had brought to the attention of the Court of Appeals, and other unrelated material including an asserted disclosure to the United States Government "for warhead of Nike missile."

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[1] **Bulletin of the Institute for Chemical Research, Kyoto University, November 1954, Kyoto, Japan.**

Applicant was given an oral hearing upon the Petition for Rehearing on October 15, 1956, at which he orally presented the grounds upon which he based his assertion that the Kyoto Report demonstrated the presence in one of the nuclear weapons of the United States the materials disclosed by Applicant in the disclosures referred to in the Findings filed in this case on October 25, 1955. Applicant was examined by representatives of the Office of the General Counsel of the Atomic Energy Commission and by members of the Board. He was also given an opportunity to examine Col. Hudgins, who appeared as a witness at the hearing.

Applicant's presentation failed to disclose any coherent relationship between the findings in the Kyoto Report and what Applicant contends was the disclosure made by him to officials of the United States upon which he bases his application for an award. Col. Hudgins testified that he had examined all of the documents filed by Applicant in this case and had also examined the Kyoto Report and upon the basis of that examination testified:

> Chairman OOMS. Colonel Hudgins, do you find anywhere in the documents filed with the Patent Compensation Board by the applicant, Dr. Grossman, any disclosure of a formulation, a process or a method, or a structure which would constitute an atomic weapon?
>
> The WITNESS. No, sir; none.
>
> Chairman OOMS. Do you find anywhere in those disclosures any discussion of a procedure, method, substance or device for the utilization of atomic energy?
>
> The WITNESS. No, sir.
>
> Chairman OOMS. Have you read the Kyoto Report, Colonel?
>
> The WITNESS. Yes, sir.
>
> Chairman OOMS. Do you find anything in the Kyoto Report that discloses assumptions of the use of any of the materials, not individually, but in the combination suggested in the Dr. Grossman papers?

The WITNESS. No, sir. I could go farther and say that the isotopes listed on page 59 of this report were not constituents of the bomb that we detonated. The source of these isotopes could have been from the transmutation of elements in the vicinity of the nuclear detonation, from the water, from the coral, from the air or other materials. They were not constituents of the bomb.

Chairman OOMS. Can you state from your knowledge and without penetrating classified matters whether or not the substances in the combinations and the changes and modifications suggested in Dr. Grossman's papers have been used by the Atomic Energy Commission, either as constituents for atomic weapons or in the utilization of nuclear energy?

The WITNESS. No, sir. They have not.

In Dr. Grossman's presentation of his evidence in support of the application for rehearing he said in part:

> In the Kyoto report platinum 237 is mentioned as a finding. I mean, excuse me, not platinum, uranium 237. * * * They showed the radioactivity of the uranium they found. In the report, palladium or the ingredients that turn to palladium. I think they are ruthenium and rhodium. * * * The zirconium is played up as the main ingredient in both American and Japanese reports. With the zirconium they play up niobium. It is a daughter of zirconium. It is a radioactive daughter. They play up that it parallels with the metals in that group, strontium and so forth. * * * They say they were 80 miles. I believe they were less than 8 miles, or very close. They say a halogen iodine 13, deliberately leaving off the "1." They mean to let us know, people of intelligence in the field, that they know that cyanogen was in it because it is 13 mass, and the mass number governs the property for what the ingredient is.
>
> The radioactivity of every ingredient is shown by test in the Kyoto report. * * *

> Every page in the book supports my position. My chemicals are mentioned more than 1,000 to 2,000 times. They are mentioned on every page in the book. They are repeatedly mentioned, some of them 100 times. I have just turned at random to this page. It says, "Summary. From the Bikini Ashes following nuclides were assigned by the radiochemical procedure: calcium, 45; strontium, 89; yttrium, 91; zirconium, 95; niobium, 95; ruthenium, 103, rhodium, 103; barium, 140; lanthanum, 140; cerium, 144; Pr is a rare earth, I don't remember the name, 144; uranium, 237."

Upon being questioned by the Chairman as to the number of these chemicals included in Applicant's disclosure, Dr. Grossman replied, "All of them." As to what disclosure Applicant made to officials of the United States, Dr. Grossman asserted:

> Specifically, it was the disclosure I just made to you about uranium, zirconium, barium. I mentioned in the thermal type reaction, that the peroxide was the accelerator and get it off spontaneously if you could. * * *
>
> I might mention to you that there is a tremendous group of American cyanamide explosives. I might mention that ammonium was used to detonate the cyanogen. It is a sodium hydroxide that will detonate it or any alkali. Particularly the hydrocyanic that has not been stabilized with another acid. * * * Now, then you will notice that I have said that there is a synergism of the three deadliest poisons, barium, arsenic and cyanide. There are no three poisons deadlier to protoplasm. By a synergism we get an action a thousand times more powerful. * * * The barium is mentioned there by their test. The strontium is mentioned, but the strontium is merely a byproduct and is not essential to the invention. I mentioned no strontium in my original disclosure. It parallels barium. The nitrates are explosive. It is akin to barium. It will do what barium will do, except that barium is a million billion times more poisonous. Strontium is a food. It promotes the calcium building in the bone. Strontium

is given to you by the doctor. Barium is the deadly thing. The Japanese did not want to make the Americans look foolish saying anything about strontium, but they said they could not find any, except here. When they took what they found of strontium and put in mice with terrific injections of huge amounts, the mice actually improved in health. But when they put only one one-thousandth as much of barium in the mice and other animals, the animals all died quickly. They show that in this book. * * * It was the zirconium that I gave. I did not mention rare earths in my disclosure. They mentioned in the report that they could not separate rare earths from the zirconium. * * * You notice they say the presence of the rare earths was also found but their assignments could not be carried out. In other words, they were the negative part. The zirconium and barium were the main mass. It says from these results it seems probable that the radioactivities in the rain water have been caused by the nuclear detonation which might take place a few weeks before. They say they could not find the other ingredients enough to analyze them.

* * * * *

* * * There is a relationship between the atom bomb and aqua reqia. You take the nitric acid and hydrochloric acid and put in platinum and gold and nothing happens. It cleans them up. But you put nitric acid and hydrochloric acid together and the platinum and gold disappear or any other kindred chemicals. That is because the nit—it is the hydrogen oxichloric that is nonexplosive but is the deadly poison of atomic power. In other words, the nitrogen unites with a halogen and instead of chlorine we have a halogen a million times more powerful than cyanogen. In other words, the power of dissolving metals and the power of dissolving the body and killing it is based on the freeing of these atoms into an atomic instantaneous power and some of them have the stable power. They

stay that way. Now, then, about my cyanogen, in the Nagasaki movie which I saw not too long ago in the New York newsreel theater on Broadway, it said Nagasaki, and the victims mentioned the odor of peaches in the air, and that is cyanogen. They mentioned chrysanthemums which is a cyanide and cyanate. They mentioned garlic. That is arsenic. I have those boxes at home and the movie I cannot bring to you. You could see it yourself. Now then, arsenic, I have studied beyond what any man ever did because I pretty near killed people with arsenic, killing the nerves. I was fearful I would. I want to know what I do. I never did. Arsenic gets the muscles of the wrist, renders them helpless. Cyanogen gets the muscles of the arm and renders them helpless. In Nagasaki and Hiroshima you have the victims unable to hold their wrists. That is arsenic and cyanogen and nothing else. Then come on your ulcers from the arsenic and cyanogen and then this later on, they are cooked. In other words, the posture of the victim, I have brought that to show you the typical cyanogen posture from Brittanica. * * * * * *.

Mr. Anderson. Dr. Grossman, as I understand it, ammonium nitrate and hydrocyanic acid are necessary constituents of the disclosure before this Board and submitted in the original application.

Dr. Grossman. That is what I disclosed. You can substitute potassium nitrate or any other nitrate explosive and get an alkali. I do not regard ammonium nitrate as ammonium nitrite. When I sniff at it I smell nitric acid. I smell in H 3—to me it is ammonium in H 3 plus HNO 3 I sniff in H 408. They add up the same. I am getting the properties of ammonium and nitrate and putting them together they detonate.

Mr. Anderson. But that is a necessary constituent of your decomposition.

Dr. Grossman. It is the best constituent. When I gave it to the government I did not say use something

> else. To me it is the best because it interjects. Ammonium is the best solvent known to man and nitrate is the best explosive."

At the hearing Applicant made a sincere effort to relate his asserted disclosure to officials of the United States with statements in the Kyoto Report that indicated in any way any conformity or similarity to the disclosure upon which this application is based. The Board offered Applicant an opportunity to file a written statement with the Board developing what Applicant asserted was an extensive demonstration of the relationship between his conceptions and those revealed by the Kyoto Report and was offered such reasonable time as Applicant might consider necessary for that purpose. Thereupon the hearing was adjourned.

On the same day Applicant filed with the Board, over his signature, this statement waiving further proof:

> * * * May I herein request that Docket 17 be now passed upon by you with no further hearing, and no further data from me. * * *

Upon examination of the material presented at the hearing upon the Petition for Rehearing, the Board has concluded and therefore finds that no evidence is disclosed of any relationship between the contents of the disclosures of Dr. Grossman to officials of the United States and the findings in the Kyoto Report with respect to details of the detonation at Bikini to which that report is directed. On the contrary, it is evident that all of Dr. Grossman's asserted disclosures are of *chemical* reactions and properties—some of it unconventional chemistry in which proponent disagrees with the standard authorities and authoritative texts in the field of chemistry—whereas the Kyoto Report deals unmistakably with radioactive fallout and other results of a thermonuclear detonation.

Dr. Grossman has disclosed no materials, method, formula, or weapon that is dependent upon atomic energy or the nuclear reaction as that term is understood. His teachings have not been utilized by the Atomic Energy Commission and, if evaluated objectively, disclose no useful knowledge in the field of atomic weapons or the utilization of nuclear energy.

The Kyoto Report is a full statement of the findings by Japanese scientists based upon extensive studies of the fallout from the thermonuclear detonation of March 1, 1954. No conclusions can be drawn therefrom as to the original character of the detonated device which relate it in any way to the asserted disclosures of Applicant. On the contrary, Applicant has repeatedly found it necessary to dispute the contents of the report and to contradict some of its explicit statements in order to contrive a fancied connection between his concepts and disclosures and the evidence reviewed in the report.

Any disclosure that Applicant has testified to before this Board is essentially chemical in character and at most, a speculative and conjectural conception of a weapon which is not atomic in character but one dependent upon chemical reactions for detonation and destructive effects. Applicant's conceptions do not fall within the terms of either the Atomic Energy Act of 1946 or that of 1954; they disclose no useful teaching in the fields committed to this Board for consideration in the grant of an award. A review of the earlier determination by this Board in the light of the evidence and argument by Applicant leads to the conclusion that that determination was correct and nothing offered in support of the Petition for Rehearing in any way modifies the findings and determination originally made. The evidence offered in support of the Petition for Rehearing does not justify any modification of our previous determination.

Casper W. Ooms, *Chairman,*
John V. L. Hogan,
Isaac Harter,
Patent Compensation Board.

Dated: November 26, 1956, Washington 25, D. C.

United States Court of Appeals for the District of Columbia Circuit

* * * * *

Filed January 9, 1957

ORDER

Upon consideration of petitioner's motion for leave to file a motion to reopen the above case, and it appearing that no objections thereto have been filed, and it further appearing that petitioner's motion to reopen this case has been lodged with the Clerk, it is

Ordered by the Court that the Clerk be, and he is hereby, directed to file forthwith petitioner's motion to reopen this case.

Upon consideration of petitioner's motion to reopen this case it is ordered by the Court that the aforesaid motion be granted and that the time for filing petitioner's brief be established as February 9, 1957, respondents' brief to be filed within twenty-five days after the filing of petitioner's brief.

It is further ordered by the Court that insofar as petitioner moves in the motion to reopen to have the record in the above case impounded said motion be, and it is hereby, denied.

Per Curiam.

To the United States Court of Appeals for the District of Columbia Circuit

* * * * *

Filed January 9, 1957

MOTION TO REOPEN CASE #12,959 TO HAVE A HEARING BEFORE THIS COURT

On February 10, 1956, this Court ordered the Atomic Energy Commission to grant a further hearing to the petitioner.

The Atomic Energy Commission granted this hearing and had made a final finding of facts refusing compensation to the petitioner.

The Petitioner, herein, is asking this Court to again remand to the United States Atomic Energy Commission for further consideration and compensation to the appellant for having given the Atomic H Bomb formulas to the United States Government.

The Petitioner request the Court to keep in secret the entire Docket 17, that the Commission has sent to the Court, and not to let the Public see the Docket as the contents of the Docket are the true Atomic H Bombs in formula detonated by the United States.

The reasons for the Court to remand this case again to the U. S. A. E. C. are:

1. That the formula is the Atomic H Bomb formula though the Commission denies this.

Petitioner will prove to this Court conclusively by chemical test that the formula used by the U. S. A. for the Atomic H Bombs were from the formula given by the appellant to the United States Government. Further proof of this will be by flame test, clothing test, such as the victims' small burnt holes with a shiny metallic deposit from one of the appellant's ingredients, and the effect of the appellant's ingredient on the color clothing dyes, and the nonaniline white clothing of the victim. Proof of formula will also be specific ingredient effect on wrists, arms, body moisture, and body parts of the survivor, and with his or her dusky cyanosis.

The Nagasaki Walk and the Hiroshima Mask of the survivors will be proven to be from Petitioner's formula.

Appellant will show that his specific formula for the Atomic H Bombs was given to the acting Secretary of Defense, and requested by the Board and entered into Docket 17, and there is nothing vague about it.

The A. E. C. has failed to return this receipt to the Appellant.

The chemical colors of the Bomb will be shown to be from each of the Appellant's ingredients. The flames of the Bomb will also be identified. The ionization of the air by the ingredients will be shown to be Atomic as in Orion, the Sun, and Radium.

Petitioner will show that ingredients of his formula were identified in the Kyoto report, A. E. C. publications, Westinghouse Research, and President Roosevelt's letter to Mr. Engelhard, and other proofs.

Petitioner appeals to this Court to remand this case for more fair consideration by the United States Energy Commission.

Most respectfully yours,

(S) CORNELL JOEL GROSSMAN, D. D. S.

United States Court of Appeals for the District of Columbia Circuit

* * * * *

Filed January 9, 1957

ORDER

Upon consideration of petitioner's motion for leave to file a motion to impound the record in the above case, it is

Ordered by the Court that the aforesaid motion be treated as a motion to impound the record and that the aforesaid motion be, and it is hereby, denied.

Per Curiam.

U. S. GOVERNMENT PRINTING OFFICE: 1957